

Lying For the President

FIREWALL The Iran-Contra Conspiracy And Cover-up

By Lawrence E. Walsh
Norton. 544 pp. \$29.95

By Scott Armstrong

TWENTY-FIVE years after Watergate, we must acknowledge that coverups do work. In the great constitutional crisis called the Iran-Contra affair, appeals courts set aside certain of the convictions of Oliver North and John Poindexter, Attorney General Richard Thornburgh refused to allow mundane national security information to be used in other prosecutions, and a presidential pardon kept all but one of those convicted out of jail.

Nevertheless, the performance of independent counsel Lawrence E. Walsh surpassed that of his Watergate predecessors. His staff parsed truth and falsehood more carefully and did so in a case with far greater scope and complexity. In stark contrast to Watergate, Walsh went beyond documenting the cases he made in court. In his final report, he provided extraordinary detail about the roles of the president, the vice president, the attorney general, the chief of staff and the secretaries of Defense and State in authorizing the original misdeeds—and then he disclosed their subsequent participation in an extended coverup. He did not shirk naming those responsible. Where the intelligence community dropped the veil of secrecy, he told as complete and coherent a story of the international intrigues surrounding the affair as he could.

The result was not reassuring. In the case of Iran-Contra, the constitutional system didn't work as well as it should have. Walsh's final report sounded an important warning: The laws and processes under which he was forced to investigate and prosecute are so deeply flawed that the coverup succeeded. Four years later, a full decade after he arrived on the Washington scene, Walsh has published a personal memoir based on that final report. Derivative though it may be, *Firewall* is an important, perhaps singular, contribution to the understanding of how our constitutionally mandated upper

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ILLUSTRATION BY RANDY MAYS FOR THE WASHINGTON POST

From left and down: Lawrence E. Walsh, President Bush, George Shultz, President Reagan, Donald Regan, Edwin Meese, Oliver North with his lawyer, Brendan Sullivan

bureaucracies really work. Although most of the facts were in the final report, they take on a new life as Walsh recreates the investigative peeling, layer by layer, of the Iran-Contra onion. His zeal to justify the longest and most expensive independent counsel investigation in history forces him to dismantle, brick by brick, the "firewall" built around President Reagan by his senior aides. The only element of suspense is not whether, but how, the culprits will go free. For patient students of accountability in government, the book's extraordinary detail makes for must reading.

A former federal judge, the deputy attorney general in the Eisenhower administra-

tion and a fixture of the American Bar Association, Walsh prides himself on a thick skin and a fierce determination to bring wrongdoers to heel. He put together a prosecutorial team of varying talents that benefited from having to replenish itself with fresh blood as the investigation dragged on. Each new front line had to review the old evidence and integrate the new. Those inclined to fault Walsh for being far too slow to grasp the scope and dimensions of the scandal—a group that includes some of his former colleagues—will be fascinated as he acknowledges his naivete and gradual disillusionment.

Even Walsh's fiercest critics (one of whom, Bob Dole, —Continued on page 10

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he considers a craven apologist for Reagan and Bush) will be fascinated by Walsh's assessment of each subject of his investigation—from North to McFarlane to Poindexter to Secord to Hakim to the senior CIA officials to Casey to Shultz to Weinberger to Regan to Meese to Reagan and, eventually, to Bush. Seen through Walsh's eyes, the only motive common to the senior echelon is a desire to keep the president and vice president out of trouble. And even that consensus begins to break apart when Shultz refuses to lie about the president's role. But the coverup holds too long and too firmly for Walsh to prosecute its participants. He comes to recognize that virtually none of the senior players in the Reagan administration was honorable enough to hand over promised documents. He issues subpoenas too late to preserve the investigations. Where the final report referred obliquely to deception, Walsh's candor in the book is refreshing. As he uncovers the destruction of still more documents, the rehearsal of participants' accounts, the withholding of more notes, the calculated fading of memories, the stalling and obstruction of government and private attorneys, Walsh's frustration builds. His understated, patrician tone finally gives way to calling cabinet members liars by name.

But Walsh's original reluctance to condemn the government agencies who dodge and delay his requests for cooperation reflects an innocence that seems naive in such a worldly figure. Only the blatant misuse of secrecy classifications to protect cabinet officials and their aides from prosecution finally draws his outrage. Suspicious of the duplicity of Attorney General Edwin Meese, Walsh falls for the sleight of hand of Meese's successor, Richard Thornburgh. Thornburgh convinces Walsh to purge the initial indictment of important conspiracy counts to avoid exposing U.S. intelligence operations. In return, he promises to support Walsh's other demands for classified information—only to renege and stop the prosecution of the CIA station chief in Costa Rica, Joseph Fernandez.

The most dramatic story line involves Reagan's ranking aides—Chief of Staff Don Regan, Meese, Secretary of State George



BY LUCIAN PERKINS—THE WASHINGTON POST

Former defense secretary Caspar Weinberger at a news conference after he was pardoned by President Bush in 1992. His lawyer, Carl Rauh, is at right

Shultz and Secretary of Defense Caspar Weinberger—who fail to admit in testimony that the president had authorized the transfer of arms to Iran for hostages, an act they all viewed as illegal and potentially impeachable. These same men then withhold their personal notes to prevent discovery of the extent to which Reagan and Bush dissembled about their roles in the scandal. Walsh comes to detest Meese, but his cover-up was sufficiently artful to make it too difficult to prosecute him. For Walsh, Regan, ousted from the White House and vulnerable for withholding notes that contradict his testimony, is a more appealing figure whom Walsh lets off after securing his cooperation. Shultz draws a prosecutorial free pass because he alone had urged Reagan to come clean. Moreover, Shultz's notes implicate Weinberger in withholding an even more authoritative set of contemporaneous notes that implicate Reagan, Bush and Weinberger himself in both the arms sale and coverup.

The Weinberger prosecution and the 11th-hour pardon by Bush provide the crux of the debate over Walsh's excess of zeal. Was his pursuit of Weinberger unfair, or was Weinberger the ultimate Reagan-Bush loyalist who repeatedly perjured himself to protect his patrons? Walsh's evidence supporting the prosecution is detailed and non-trivial. Though a trial might not have sent Weinberger to jail, it would clearly have

drawn President Bush into each of the interwoven loops of the affair. Even after Bush lost the election, Weinberger's trial loomed as the vehicle for pursuing a fuller accounting of Bush's involvement and the possibility of bringing obstruction charges. Unable to stall Walsh forever, Bush pardoned Weinberger and five others on Christmas Eve 1992. Walsh's outrage over Bush's misuse of the presidential pardon is matched by his distress at the intelligence agencies' misuse of secrecy classifications to protect their colleagues and the White House from prosecution. Congress gets its own drubbing for immunizing North and Poindexter and thus thwarting the Watergate tactic of breaking the coverup by convicting and then sentencing lower-level personnel in order to gain their testimony against superiors. Those looking for Watergate parallels would do well to remember this: Only after his prosecution and sentencing did campaign security aide James McCord approach Judge John Sirica with the story of the coverup and only then did John Dean come forward to testify, without immunity, before the Senate Watergate Committee.

The devastating effect of Congress's immunization of North and Poindexter was not a surprise. Walsh politely observes that the joint congressional committees (whose key strategists were Sen. Warren Rudman and chief counsel Arthur Liman) decided from

the beginning to buy the cover-up's basic line that a rogue NSC cabal, under the tutelage of free-lancing CIA Director William Casey, had run amok without presidential authority. They were not about to pursue Ronald Reagan or George Bush. Walsh can't quite seem to bring himself to conclude that Congress was embarrassed by its own lack of consensus on Contra support. Almost quaintly in the cynical '90s, Walsh views Congress as a co-equal branch of government whose constitutional role requires administration officials to tell it the truth under oath, regardless of what its members actually expect.

WALSH deftly sketches the political prejudices of the federal judges who sat on his cases and the various appeals. He regrets his failure to ask former Reagan transition-team member Laurence Silberman to recuse himself from the appellate panel that tore apart his case against Oliver North, but praises the professional tactics of North's lawyer, Brendan Sullivan, for requiring Judge Abner Mikva to step down because he was a congressman who voted for the original independent counsel law. Walsh lets his unhappiness with certain defense counsel show through: Bob Bennett receives the closest and least flattering scrutiny, although Walsh's account of how Bennett secured Weinberger's pardon will probably find its way into Bennett's press-plaudits file.

Even some members of Walsh's staff get tough appraisals. His stubborn unwillingness to relinquish control to subordinates makes his eventual delegation of authority all the more poignant. Walsh reserves the full measure of contempt for a junior staff attorney and later O.J. Simpson, chronicler, Jeffrey Toobin, who refuses to wait to publish his insider book until after the appearance of the office's final report and who fails to return office documents used in writing his book. Apart from the cumbersome circularity of the prosecutorial narrative, the annoying feature of *Firewall* is Walsh's fixation on the news media. He says candidly that, given the constraints on public statements and the lulls between interim reports to Con-

gress, he felt it necessary to talk to the press as his primary constituency. Meeting with reporters for private background interviews every Thursday, he patiently kept them abreast of the investigation while withholding details known only through grand-jury activity. Unfortunately, he measures his success by the approval he got in press and editorial pages. He quotes dozens upon dozens of articles and broadcasts, by far the least interesting aspect of the book.

The failure of constitutional checks and balances in the Iran-Contra affair is deeply troubling. Walsh's team was unable to match quids with quos as government went "off the books." What concessions did King Fahd of Saudi Arabia receive for \$32 million in support of the Contras? What promises were made to Israeli leaders in return for the arms inventory provided to barter with Iran for American hostages? What did the leaders of Taiwan, Brunei, Britain, Panama, Honduras, El Salvador, Costa Rica, Guatemala and another half-dozen or so countries get or believe they would get in return for furthering the allegedly criminal conspiracy of North and friends? Most important, much of the process of "going off the books" was officially attributed to Casey, North and Poindexter, now either dead or gone from government. Walsh demonstrates that the responsibility lay with the president and his Cabinet and was more uniformly spread across agencies and institutions. If this is so, we still lack a guarantee that government is completely "back on the books." We do, however, have the next best thing: Judge Walsh's account of what has gone unfixd. ■